

§ 3461.2-2

a criterion or exception to only a portion of the tract, and if the authorized officer determines that it is likely that stipulations in the lease or permit to conduct surface coal mining operations could avoid any problems which may result from subsequent application of the criterion or exception, such tract may be included and analyzed in the regional lease sale environmental impact statement.

(c) Any unsuitability assessments which result either from a designation or a termination of a designation of Federal lands as unsuitable by the Office of Surface Mining Reclamation and Enforcement, or from changes warranted by additional data acquired in the activity planning process, may be made without formally revising or amending the comprehensive land use plan or analysis.

[44 FR 42638, July 19, 1979, as amended at 47 FR 33149, July 30, 1982; 51 FR 18888, May 23, 1986. Redesignated and amended at 52 FR 46473, Dec. 8, 1987]

§ 3461.2-2 Consultation on unsuitability assessments.

(a) Prior to adopting a comprehensive land use plan or land use analysis which assesses Federal lands as unsuitable for coal mining, the Secretary or other surface management agency shall complete the consultation set out in §§ 3420.1-6 and 3420.1-7 of this title.

(b) When consultation or concurrence is required in the application of any criterion or exception in § 3461.1 of this title, the request for advice or concurrence, and the reply thereto, shall be in writing. Unless another period is provided by law, the authorized officer shall specify that the requested advice, concurrence or nonconcurrence be made within 30 days.

(c) When the authorized officer does not receive a response either to a request for concurrence which is required by this subpart but not by law, or to consultation within the specified time, he or she may proceed as though concurrence had been given or consultation had occurred.

[44 FR 42638, July 19, 1979, as amended at 47 FR 33149, July 30, 1982. Redesignated at 52 FR 46473, Dec. 8, 1987]

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§ 3461.3 Relationship of leasing to unsuitability assessment.

§ 3461.3-1 Application of criteria on unleased lands.

(a) The unsuitability criteria shall only be applied, prior to lease issuance, to all lands leased after July 19, 1979.

(b) The unsuitability criteria shall be initially applied either:

(1) During land use planning or the environmental assessment conducted for a specific lease application; or

(2) During land use planning under the provisions of § 3420.1-4 of this title.

[47 FR 33149, July 30, 1982. Redesignated at 52 FR 46473, Dec. 8, 1987]

§ 3461.3-2 Application of criteria on leased lands.

The unsuitability criteria shall not be applied to leased lands.

[47 FR 33149, July 30, 1982. Redesignated at 52 FR 46473, Dec. 8, 1987]

§ 3461.4 Exploration.

(a) Assessment of any area as unsuitable for all or certain stipulated methods of coal mining operations pursuant to section 522 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1272) and the regulations of this subpart does not prohibit exploration of such area under subpart 3410 and Part 3480 of this title.

(b) An application for an exploration license on any lands assessed as unsuitable for all or certain stipulated methods of coal mining shall be reviewed by the Bureau of Land Management to ensure that exploration does not harm any value for which the area has been assessed as unsuitable.

[44 FR 42638, July 19, 1979. Redesignated and amended at 47 FR 33149, July 30, 1982; 50 FR 8627, Mar. 4, 1985. Further redesignated at 52 FR 46473, Dec. 8, 1987]

§ 3461.5 Criteria for assessing lands unsuitable for all or certain stipulated methods of coal mining.

(a)(1) *Criterion Number 1.* All Federal lands included in the following land systems or categories shall be considered unsuitable: National Park System, National Wildlife Refuge System, National System of Trails, National